FOR MYSORE STATE

Home (1953) Department.

MD SERIES

G.O. No. 2309

Dated 21-7-53

[Despatch Abstract.]

Eviction — South Canara Dt — Mangalore taluk — Kowdoor village — Property of one Neelamma — Recovery of possession — Filing of suit — Sanctioned

Revenue Department.
Subject.

Escheat (South Kanara) - Mangalore Taluk - Kavalmadur Village - Property of late Neelamma Declared Escheat - Suit for recovery of possession of property - Filing of suit - Sanction - Requested.
-x-x-x

Copy of letter No.Ref.A3.17949/49 dated 10-6-1953 from the Collector of South Kanara, to the Secretary the Board of Revenue, Chepauk, Madras.

Escheat - South Kanara District - Mangalore Taluk - Kavalmadru Village - property of late Neelamme Declared Escheat - Draft plaint - Submitted.

Ref:- G.O.Ms.No.4582, Home dated 29.11.1951 communicated with Board's Roc. Mis.1539 dated 11.12.1951.

In G.O.Ms.No.4582, Home dated 19-11-1951, the Government have approved the proposal to declare escheat the immovable property of late Neelamma situated in Kavalamadur village of Mangalore Taluk. The present mortgagee of the property Sri Chandraraja to whom a notice was issued asking him to state whether he was willing to surrender the property to the possession of the Government on receiving payment of Rs.2;500/- being the mortgage amount and reasonable cost of improvement has not responded to the notice through it was personally served on him on 17-10-1952. It is therefore necessary to file a suit in court for redumption of the escheat property. A draft plaint proposed to be filed into court is enclosed. I request that the Board may be pleased to accord sanction for the institution of the suit and approve the draft plaint submitted herewith. Further the Government Pleader South Kanara reports that the plaint property has been valued at Rs.40,000/- on the basis of the income valuing a mura of rice at Rs.25/- and that it is necessary in this case to engage a junior counsel to appear with him. He suggests that Sri M. Venkatraya Kamath, B.A., B.L., Advocate Mangalore a Civil lawyer with long standing may be appointed as the Junior lawyer. The suggestion of the Government Pleader may be approved. The Government Pleader's letter Ref.No.432/53 dated 18.3.1953 is at page 465 c.f. of the records of enquiry enclosed.

2. A notification regarding escheat of the escheat of the property has been published at page 497 of the Fort St. George Gazette Part II dated 23.4.1952 An erratum to this notification was published at page 707 of the Fort St. George Gazette Part II dated 28.5.1952.

(True copy)

kk.25.6

For Joint Secretary.

IN THE COURT OF THE SUBORDINATE JUDGE OF SOUTH KANARA.

O.S.NO. /53.

Between:

The State of Madras

represented by the
Collector of South Kanara- Plaintiff

and

1. Anantharaja Shetty)
2. Nemiraja Shetty)
3. Chandraraja by guardian Dharnamma.) Defendants.

PLAINT UNDER ORDER 7 RULES 1 to 6 OF CODE OF CIVIL PROCEDURE.

The Plaintiff abovenamed begs to state as follows:-

1. That the Plaintiff is the State of Madras represented by the Collector of South Kanara, Mangalore. Process on the Plaintiff may be served on the Government Pleader, Mangalore Town.

2. That the Defendants 1 and 2 are the Nephews of Gummanna Shetty, 3rd Defendant is the son of Darnamma, defendants 1 and 2 residing at Bantwal & 3rd defendant residing at Kaval Mudur village Bantwal. That is the address of the defendants for service of all notices and processes as well.

3. (a) The properties described in the Schedule A annexed hereto pertaining to holding No.62 of Kaval Mudur village Muli No.25 originally belonged to Shivamma, Duggamma and Puttamma of Puttige village. On 8.10.1890 these three persons executed a usufructuary mortgage deed in favour of one Kinnyappa Hengsu of Pudukodi village for a sum of Rs.2500/- and the properties were put in the possession of Kinnyappa Hengsu.

(b) As per the terms of the aforesaid usufructuary Mortgage deed, the properties are liable to be redeemd on or after 10.10.1950.

(c) The afor said Shivamma, Duggamma and Puttamma died issueless. But before their death, they took in

adoption as their legal heirs Padmayya Malla and Neelamma by a registered deed of adoption dated 27.10.1890. Aforesaid Padmayya Malla and Neelamma died in about the year 1906 without leaving any issues and the proprties are liable to be escheated to the Government. But the said- said properties are in the possession of the Successors in title of Usufructuary Mortgagee namely the third defendant. The last holder of the suit properties Neelamma died intestate leaving behind her no legal heirs. Hence the properties are liable to be escheated to the Government. In the proceedings Ref. F.No.5411/50-1 the Government have escheated the properties to the Government, and the notification to that effect was published in part 2 of the Fort Saint George Gazette on 23.4.52. And erratum to the notification was also published in Part 2 of the Fort St.George Gazette on 28.5.52. The defendants 1 and 2 filed their objections to the Escheat proceedings alleging that they are the heirs to the Estate by virtue of a will left by Neelamma in favour of her husband Gummanna Shetty. The said will has not been produced nor proved and the Plaintiff does not admit the existence of genuineness of the alleged will set up by defendants 1 and 2.

(d) The Plaintiff is therefore entitled to get possession of the suit properties from the 3rd defendant free from the objections of the defendants 1 and 2.

(e) The plaintiff is not aware of any will alleged to have been executed by Neelamma and submit that the Properties are liable to be escheated to the Government.

(f) The plaintiff submits that they are willing to pay the Usufructuary mortgage amount of Rs.2500/- due to the 2nd 3rd defendant before delivery of the suit property and as the time for redemption has expired on 10.10.1950 they are entitled to redeem the said properties. The Plaintiff are therefore constrained to file this suit as the defendants are not willing to deliver the suit properties outside court. The present suit is filed by the Plaintiff basing the same on title to obtain the under mentioned reliefs.

4. The cuase of action for this suit arose on 8.10.1890 and since the year 1906 and on 10.10.50, the date of Revenue Board's Proceedings B.I Miscellaneous and the publication [illegible] said

proceedings in the Fort St.George Gazette in Kaval Mudur Villa Mangalore Taluk within the Jurisdiction of this Court.

5. For the purpose of Court fee and jurisdiction the suit is valued at Rs.40000/- and a court fee of Rs.1612-7-0 calculated under Article 1, Schedule 1, section 5 of the Court Fees Act.

6. The Plaintiff therefore prays for a decree and judgment in favour of the state of Madras against the defendants for the following reliefs.

(1) For possession of the suit properties described in the schedule A annexed hereto to the Plaint together with the mesne profits from this date till delivery of the same at the rate of 100 Muras of Kuchige Rice per annum. For purposes of Court fee and Jurisdiction this relief is valued at the market value of land and the Plaintiff is willing to pay the third defendant the sum of Rs.2500/- being the usufructuary Mortgage within a time to be fixed by the Court. Valuing rice at Rs.25/- per Mura and capitalising the net income at 6% Rs.40,000/-

2) The defendants may be directed to reconvey the properties free from the objections of the defendants 1 and

3) Directing the defendants to pay the costs of suit with interest and interest on the aggregate from this date till date of realisation

For such other and further reliefs as this court deems fit to grant under the circumstances of the case.

MANGALORE)
)
-6-1953) GOVERNMENT PLEADER PLAINTIFF

(COLLECTOR OF S.KANARA

I the plaintiff abovenamed do hereby declare that the facts stated above are true to the best of information.

Mangalore

dated / /53 Plaintiff

(Collector of S.Kanara.)

A.SCHEDULE

DESCRIPTION OF THE PROPERTIES

Properties situated in Kavalmadur village Mangalore Taluk and comprised in patta No.62

S.NO.	S.D.NO.	CLASSIFICATION	EXTENT	ASSESSMEN_
32	1A	Wet	0.65	5.8 ^
32	14	-do-	1-20	10-2-0
32	2A	do	1-80	3-1-0
32	6	-do-	0-20	0-7-0
32	7	-do-	0-94	3-3-0
32	8	garden	0-27	0-10-0
32	3	-do-	0-58	1-5-0
32	4	-do-	0-[illegible]	2-0-0
32	12	-do-	0-60	0-7-0
32	5B	wet	1-80	15-3-0
32	[illegible]	-do-	[illegible]	17-13-[illegible]
32	1	do-	0-32	[illegible]
32	2B	-do-	10-6[illegible]	18-0-0
32	11	-do-	[illegible]	0-13-0
~~32~~	~~2B~~			
~~32~~	~~11~~			

~~TRUE COPY~~

Plaintiff.

Collector of Mk.)

2

Annexure

In the Court of the Subordinate Judge of South Kanara
O.S.No. /53

Between:
The State of Madras represented by the Collector of South Kanara — Plaintiff

and

1. Ananthraja Shetty
2. Nemiraja Shetty
3. Chandraraja by guardian Dharmamma. — Defendants.

Plaint under order 7 Rules 1 to 6 of Code of Civil Procedure.

—

The Plaintiff abovenamed begs to state as follows:—

1. That the Plaintiff is the State of Madras represented by the Collector of South Kanara, Mangalore. Process on the Plaintiff may be served on the Government Pleader, Mangalore district.

2. That the Defendants 1 and 2 are the Nephews of Gurramma Shetty, 3rd Defendant is the son of Dharamma, defendants 1 and 2 residing at Bantwal and 3rd defendant residing at Kaval Mudur village Bantwal. That is the address of the defendants for service of all notices and processes as well.

3. (a) The properties described in the Schedule A annexed hereto pertaining to holding No. 62 of Kaval Mudur village Mulli No. 25 originally belonged to Shivarma, Duggamma and Puttamma of Puttiga village. On 8-10-1890 those three persons executed a usufructuary mortgage deed in favour of one Kimayappa Hengsu of Pudukodi village for a sum of Rs. 2,500/- and the properties were put in the possession of Kimayappa Hengsu.

(b) As per the terms of the aforesaid usufructuary Mortgage deed, the properties are liable to be redeemed on or after 10-10-1950.

(c) The aforesaid Shivarma, Duggamma and Puttamma died issueless. But before their death, they took in adoption as their legal heirs Padmayya Malla and Neelamma by a registered deed of adoption dated 27-10-1890. Aforesaid Padmayya Malla and Neelamma died in about the year 1906 without leaving any issues and the properties are liable to be escheated to the Government. But the said properties are in the possession of the Successors in title of Usufructuary Mortgagee namely the third defendant. The last holder of the suit properties Neelamma died intestate leaving behind her no legal heirs. Hence the properties are liable to be escheated to the Government. In their order No. Ms. 4582, Home, dated 29-11-1951, the Government have approved the proposal of the Board of Revenue to declare the properties escheat to the Government, and the notification to that effect was published in part 2 of the Fort Saint George Gazette on 25-4-1952. And erratum to the notification was also published in Part 2 of the Fort St. George Gazette on 28-5-1952. The defendants 1 and 2 filed their objections to the Escheat proceedings alleging that they are the heirs to the Estate by virtue of a will left by Neelamma in favour of her husband Gurramma Shetty. The said will has not been produced nor proved and the Plaintiff does not admit the existence of genuineness of the alleged will set up by defendants 1 and 2.

(d) The Plaintiff is therefore entitled to get possession of the suit properties from the 3rd defendant free from the objections of the defendants 1 and 2.

P.T.O.

(e) The plaintiff is not aware of any will alleged to have been executed by Neelamma and submit that the Properties are liable to be escheated to the Government.

(f) The plaintiff submits that they are willing to pay the Usufructuary mortgage amount of Rs. 2,500/- due to the 3rd defendant before delivery of the suit property and as the time for redemption has expired on 10-10--1950 they are entitled to redeem the said properties. The Plaintiff are therefore constrained to file this suit as the defendants are not willing to deliver the suit properties outside court. The present suit is filed by the Plaintiff basing the same on title to obtain the under mentioned reliefs.

4. The cause of action for this suit arose on 8-10-1890 1950 and since the year 1906 and on 10-10--1950, the date of Revenue Board's Proceedings B.P. Miscellaneous and the publication of the said proceedings in the Fort St. George Gazette in Kaval Mudur village, Mangalore Taluk within the Jurisdiction of this court.

5. For the purpose of Court fee and jurisdiction the suit is valued at Rs. 40,000/- and a court fee of Rs. 1,612--7--0 is calculated under Article 1, Schedule 1, section5, of the Court Fees Act.

6. The Plaintiff therefore prays for a decree and judgment in favour of the state of Madras against the defendants for the following reliefs.

(1) For possession of the suit properties described in the schedule A annexed hereto to the Plaint together with the mesne profits from this date till delivery of the same at the rate of 100 Muras of Kuchige Rice per annum. For purposes of Court fee and Jurisdiction this relief is valued at the market value of land and the Plaintiff is willing to pay the third defendant the sum of Rs. 2,500/- being the usufructuary Mortgage within a time to be fixed by the Court. Valuing rice at Rs. 25/- per Mura and capitalising the net income at 6% — Rs. 40,000/-

(2) The defendants may be directed to reconvey the properties free from the objections of the defendants 1 and 2.

(3) Directing the defendants to pay the costs of suit with interest and interest on the aggregate from this date till date of realisation

For such other and further reliefs as this court deems fit to grant under the circumstances of the case.

Mangalore
-6--1953.

Government Pleader. Plaintiff
(Collector of S.Kanara)

I, the plaintiff abovenamed do hereby declare that the facts stated above are true to the best of information.

Mangalore,
dated /53

Plaintiff.
(Collector of S. Kanara)

P.T.O.

11

A. Schedule

Description of the properties.

Properties situated in Kavalmadur village Mangalore Taluk and comprised in patta No. 62.

S.No.	S.D.No.	Classification	Extent	Assessment
32	5A	Wet	0.65	5 8 0
32	14	do	1.20	10 2 0
32	2A	do	1.30	3 1 0
32	6	do	0.20	0 7 0
32	7	do	0.34	3 3 0
32	8	Garden	0.27	0 10 0
32	3	do	0.58	1 5 0
32	4	do	0.44	2 0 0
32	12	do	0.80	0 7 0
32	5B	Wet	1.30	15 [illegible] 0
32	9	do	3.[illegible]6	17 13 0
32	1	do	0.32	0 12 0
32	2B	do	10.65	18 0 0
32	11	do	0.48	0 13 0

/True Copy/

Superintendent.

SWG. 21-7-

Home Department.

C.No.133899/53. G.O. Ms. No. 2309 dated 21.7.53

Escheat - South Kanara dt. - Mangalore taluk Kavalamudur village - Property of late Neelamma - Recovery of possession - Filing of suit - sanctioned.

Read: G.O. Ms: No. 4582, Home, d/19.11.51.
From the Board of Revenue, Madras,
No.F. 4613/53-1 d/25.6.53.

Order:

Sanction is accorded to the filing a suit against Sri Anantharaja Shetty and two others for recovery of possession of the properties of the late Neelamma, escheated to Govt.

2. A copy of the draft plaint forwarded by the Board of Revenue as approved, is annexed.

3. The Govt. Pleader, South Kanara is permitted to engage Sri M. Venkatraya Kamath, Advocate, Mangalore as his junior to assist him in the conduct of the Suit ~~suit mentioned above~~. The Junior will be paid one third of the fee which the Govt. Pleader will be entitled for the suit in question.

To

The Board of Revenue, Madras (with enclosures*)

The Collector of South Kanara. (with encls)

The A.G., Madras thro' Finance.

Duplicate copy to the A.G., Madras (by name)

Copy to Cts. III

*Encls. to the Bd. of Revenue.

(1) 4 Gazettes in orgl.

(2) Collector's file at (S) orgl.

(3) Copy of pp. 3-6, c.f.

Annexure

[Here please enter pp 3-6 cf as added in pencil]

REVENUE DEPARTMENT
Subject.

Escheats-South Kanara -Suit- O.S.No. 48/54 on the file of Sub-Judge of S.Kanara-Against Anantharaja Shetty and two others-Result of suit-Intimated.

-x-x-x-x-x-x-x-x-x-x-x-x-x-

ASSISTANT SECRETARY
11 MAR 1955
3599
LAW DEPARTMENT, MADRAS

Station: Madras. Rd's L.Dis.E. 1951/55 Dt. 4-3-55.

Sri V.N. Kudva Commr. of Commercial Taxes and Custodian of Evacuee Property.
Sri P. Sivasankaran Pillai I.A.S.Secretary Civil Supplies.

Read: G.O.Ms.No. 2309(Home 1 dt. 21-7-1953.
South Kanara Collector's ref.Spl.C.B.90/53 A3. dt. 22-2-55.

L.Dis.

Submitted to the Government for information.

For Secretary.

The Secretary to the Government,
Law Department.

C.[illegible]/3

Copy of letter No. Ref.Spl.C.B .90/53 A3 dt. 22-2-55 from the Collector of South Kanara to the Secretary to the Board of Revenue, Madras.5.

Sub: Suits-O.S.No. 48/54 on the file of the Sub Judge of south Kanara-Against Anantharaja Shetty and two others-Result of the suit-Intimated.

Ref; I.G.O.Ms. No. 2309 Home Department dt. 21-7-1953.
2.B.P.Mis. 860 dt. 31-7-53.

In their order cited first, the Government were pleased to accord sanction for the filing of a suit against Sri Anantharaja Shetty and two others for recove of possession of the properties of the late Neelamma, escheated to Government. Th draft plaint as approved by the Government was taken on file of the Sub Judge of South Kanara as O.S.No. 48/54.

The Suit has since been decreed for actual possession of the plaint schedul property against the defendants 1 and 2 and symbolical possession against the 3rd defendant with past and future mesne profits and cost of the suit against the defendants 1 and 2. I enclose copies of the judgment and the decree for perusal and return. I am taking further action to see if a suit for redemption must necessarily be filed or if the redemption could be got by negotiation.

...

IN THE COURT OF THE SUBORDINATE JUDGE OF SOUTH KANARA
PRESENT: Sri E.K.Moidu, B.A.B.L.,
11.Additional Subordinate Judge.

Wednesday the 15th day of December 1954
Original suit No. 48 of 1954.

Between:

The State of Madras, represented by the Collector of South Kanara. — Plaintiff.

and

Anantharaja Shetty
Nomiraja Shetty
Chandraraja. — Defendants.

p.t.

This suit coming on for final hearing on the 14th day of December 1954 before me in the presence of Sri B.G.Das, Government Pleader and Sri N.V. Kamath, advocate for the plaintiff, of SriK.B.J.Hegde, advocate for the 3rd defendant, and defendants I and 2 being absent and set ex parte, and having stood over for consideration till this day, the court delivered the following.

Judgement.

Suit is to recover possession of the plaint schedule property on the strength of the plaintiff's title with mesne profits at Rs. 3886-8-0 future mesne profits at the rate of 100 muras of rice and cost of this suit. It is alleged that the suit property is escheated to the Government after the death of the last holder one Neelamma. Plaintiff as the state of Madras, represented by the Collector of South Kanara sues to recover possession from the defendants on payment of Rs. 2500/- as mortgage amount due to the 3rd defendant. The 3rd defendant is said to be the mortgagee in possession of the property. The plaintiff states that he has taken escheat proceedings against defendants land 2 who claim to be the representatives - in-title to the orginal owners of this property. Plaintiff disputes the title of defendants 1 and 2 and contend that they have no manner of title to this property; but the plaintiff offers to pay the mortgage amount of Rs. 2500/- due to the 3rd defendant.

The 3rd defendant states that the plaintiff did not acquire any valid right to the property, that he is not aware of the right of Neelamma, that he is in possession as a mortgagee on the basis of Ilidarwar,deed that he ie entitled to the value of improvements, that he is prepared to surrender if his mortgage money and value of improvements are paid, that he is not liable for the past or future mesne profits or costs of the suit and the suit as against him has to be dismissed with his costs.

3. Defendants 1 and 2 are absent and set ex parte
4 The following issues were framed for trial:-

1. Whether the 3rd defendant is entitled to any and what compensation for improvements?.

2. To what reliefs?

Additional issue framed on 14.12.1954

3. Is the escheat true.

4. Whether the 3rd Defendant is a necessary party to the suit?

5. Additional issue No.3. P.W.I is the clerk of the plaintiff. He was attending to the escheat proceedings. Ex.AI to EX.A4 are the relevant publications in the District Gazette as well as in the Fort St.George Gazette with regard to the eschest proceedings.P.W.I has proved these proceedings. The evidence in the case is that the last surviving holder of the Muli right over the suit property was one Neelamma.She was reported to have died in 1946 without leaving any heirs to her estate. So the Plaintiff was entitled to step in under the escheat.

6. Defendants I and 2 are said to have claimed this property on the basis of a will, but they did not come forward to contest the plaintiff's claim either in the escheat proceedings or in this court. The 3rd defendant who is a mortgagee in possession of the property has disputed the plaintiff's claim on the basis of escheat. But he has not produced any documentary or oral evidence to show that the defendants I and 2 are the representatives in interest of Neelamma or much less Nellamma or his mortgagers have any heirs now living.Under these circumstances, I am constrained to hold after going through Exs.A1 to A4 and the evidence of P.W.I that the suit properties have been validly and properly escheated to the Government. The issue is found in the affirmative.

7. Issue No.I and additional issue No. 4 .It is now admitted that the 3rd defendant is a mortgagee on the basis of Ex.A5.document. There is no prayer for redemption of this mortgage. The suit is based purely on the basis of the plaintiff's title.In a suit for redemption many points are required to be considered before a decree for redemption though an offer is made in the plaint to pay the mortgage money due to the 3rd defendant. The 3rd defendant has also claimed value of the improvements in case of redemption. How far he is entitled to value of improvements is also another point for consideration in a mortgage suit. Under these circumstances, the 3rd defendant is not a necessary party to this suit and that therefore issue no.I does not arise for consideration.

5/

Issue No.2-The plaintiff will be entitled to a decree for actual possession against I and 2 and symbolical possession against the 3rd defendant In the result the suit is decreed for actual possession against the defendants 1 and 2 and symbolical possession against the 3rd defendant with past and future mesne profits and cost of the suit against the defendants I and 2. The 3rd defendant do bear his own costs.

Pronounced in open court this 15th day of December 1954.

Sd.E.K.Moidu
II Additional Subordinate Judge.

Appendix of Evidence.

Plaintiff's exhibits.	
A1.20-12-1949.	South Kanara Dt.Gazette.
A2. "	Erratum to Ex.A1.
3.23.4.1954	Fort St.George Gazette PartII.
A.4.28.5.52	Do do.
A5. 8.10.1890	Usufructuary mortgage deed executed by Duggamma and another in favour of Kinnyappa Hengsu.
Defendant's Exhibits.	nil.

Witnesses examined.

....

IN THE COURT OF THE SUBORDINATE JUDGE OF SOUTH KANARA.

Present: Sri E.K.Moidu B.A.B.L.,
II Additional Subordinate Judge

Wednesday the 15th day of December 1954

Original suit No. 48 of 1954.

Between:

The State of Madras represented by the Collector of South Kanara. — Plaintiff.

and.

1. Anantharaja shetty) nephews of Gummanna shetty.
2. Nemiraja shetty.)
3, Chandraraja, son of Dharnamma.

— Defendants.

Defendants 1 and 2 are residing in Bantwal and 3rd defendant is residing in Kaval Mudur village Mangalore Taluk.

Suit to recover possession of the plaint property which is escheated to the Government after the death of the last holder one Nellamma, with past mesne profits amounting To Rs. 3886-8-0 and also future mesne profits at the rate of hundred muras of rice per year from date of plaint till delivery ~~ex~~ of possession. The plaintiff offers to pay Rs. 2500/- to the 3rd defendant being the mortgage amount due to him in respect of the said property.

Plaint presented on 29-10-53.

Value of the ~~ix~~ claim is Rs. 4679-0-0 out of which Rs. 3886-8-0 is the amount of past mesne profits and Rs. 792-8-0 is the value of the relief of possession computed at 10 times the assessment of suit property Rs. 79-4-0 and an aggregate court fee of Rs. 389-15-0 is paid.

Cause of action for the suit arose on 8-10-1890 and since the year 1906 and 10-10-50 and 29-11-51 in Kaval Mudur Village Mangalore taluk.

This suit coming on for final hearingon the 14th day of December 54. Before me in the presnce of Sri B.G Das Government Pleader and Sri M.V.Kamath, advocate for the plaintiff and of Sri K.B.J.Hegde, advocate for the 3rd defendant and defendants 1 and 2 being absent and set exparte and having stood over to this day for consideration, this court doth hereby order and decree that the plaintiff do recover actual possession of the suit property specified here below from defendants 1and 2 and symbolical possessio of the said propertyfrom the 3rd defendant.

2 It is further ordered and decreed thatthe defendants 1 and 2 do pay plaintiff (I) Rs. 3886-8-0, being the past mesne profits from 29-11-1951, till 14-10-1953 date of plaint with interest thereon at 5½p.a. from 15-10-1953 till payment and (2) Rs. 849-0-0 being the plaintiff's costs of this suit with interest thereon at 5½ p.a. from this date till payment and the 3rd defendant do bear his own costs.

It is further ordered and decreed that the defendants 1 and 2 do also pay plaintiff future mesne profits at 100 muras of rice per year from 14-10-1953, till delivery of possession of the property or until the happening of one of the events mentioned in order 20 Rule 12 C.P.C.

Description of the suit property.

Property situated inKavalmudur village, Mangalore Taluk and comprised in --patta No. 62, Sub Registration district, Bantwal.

S.No.	S.D.No.	Classification.	Extent.	Assessment.
32	5A	Wet	0-65	5-8-0
32	14	do	1-20	10-2-0
32	2A	do	1-80	3-100
32	6	do	0-20	0-7-0
32	7	do	0-94	3-3-0
32	8	Garden	0-27	0-10-0
32	3	do	0-58	1-5-0
32	4	do	0-44	2-0-0
32	12	Dry	0-60	0-7-0
32	5B	wet	1-80	15-3-0
32	?	do	3-96	17-13-0
32	1	do	0-32	0-12-0
32	2B	do	10-65	18-0-0
32	11	do	0-48	0-13-0
				79-4-0

Costs of suit.

	Plaintiff's	3rd Defendant.
1. Stamp on plaint.	389-15-0	---
2. do.Vakalat.	--	1-0-0
3. do.Exhibits.	-----	-
4. do.petitions.	6-0-0	-
5. process Fee.	6-12-0	-
6. Process Writing fee.	0-10-0	-
7. Publication charges.	9-0-0	-
8 .Pleader's fee (Senior).	327-8-0	75 -0-0 as
do.Junior	109-3-0	certified.
	Rs. 849-0-0	76-0-0

Given under my hadd and the seal of the court this 15th day of December , 1954.

Sd.E.K.Moidu, II.
Sub.Judge.

/true copy/

For Secretary.

Please see the reference from the Bd of Rev and its enclosures on pp 1-4 above. The Bd has submitted copies of the letter from the Govt and the Judgment & Decree in O.S. No 48 of 54 on the file of the court of the Subordinate Judge of South Kanara. on pp 1-4 above for information. The suit has been decreed in favour of the Govt. The papers may be filed vide Govt No 2309/Home dt 21-7-53 at [illegible] [Encumbrance will no doubt attach to Board as regards transfer in due course]

33899/53.

Home Department.

ESCHEAT - South Kanara district - Mangalore taluk - Kavalamudur Village - Property of the late Neelamma - Recovery of possession - Filing of suit - Sanction.

Ref: From the Board of Revenue, Madras, No. F.4613/53-1 d/25.6.1953.

In April, 1951, the Board of Revenue submitted proposals for declaring the properties of the late Neelamma in Kavalamudur village, Mangalore taluk, (South Kanara district) as escheated to Govt. The Collector of South Kanara reported that one Anantaraja Shetty and his brother Nemiraja Shetty of Padangodi village claimed to be the legal successors in title to the property on the strength of ~~the~~ alleged will stated to have been executed by the said Neelamma on 2.6.1906 in favour of her husband Gummanna Shetty bequeathing to him the right over the property. These claimants failed to produce the will which is stated to be an unregistered one, on the ground that it had been lost. They however produced two documents in which a will executed by Neelamma is cited.

The Govt. Pleader, Mangalore stated that the claimants will have to prove the existence of the will and also of the fact that the property in question was bequeathed under the will. As the claimants failed to prove this, the Collector stated that there is a prima facie case for declaring the property as escheat. The Board of Revenue recommended the proposals of the Collector.

At the instance of the Legal Dept. the Collector of South Kanara was requested to examine the matter again thoroughly to make it sure beyond a shadow of doubt that there is no person in existence who is legally entitled to

the ownership of the property. The Collector reported that further enquiries held in the matter did not reveal the existence of any legal heir or claimant to the property, that the only two living claimants, as already reported by him, were Sri Anantharaja Shetty and Sri Nemiraja Shetty and that neither of them produced the Will alleged to have been executed by the late Neelamma on the strength of which they rested their claim. In the above circumstances the recommendation of the Board of Revenue was accepted by Govt. and orders were issued in G.O. Ms. No. 4582, Home, d/29.11.51 approving the proposal of the Board to declare escheat the immoveable properties of the late Neelamma.

2. In his letter of June, 1953, the Collector of South Kanara has stated that the present mortgagee of the property Sri Chandraraja to whom a notice was issued asking him to state whether he was willing to surrender the property to the possession of the Govt. on receiving payment of Rs.2,500/- being the mortgage amount and reasonable cost of improvement, has not responded to the notice. The Collector states that it is therefore necessary to file a suit for the redemption of the escheat property. He requests that sanction may be accorded for filing the proposed suit and that the draft plaint proposed to be filed in the court, may be approved.

The Board of Revenue has supported the Collector's proposals and has suggested certain alterations to the draft plaint at pp. 3-6 c.f.

For orders whether the proposal of the Collector of South Kanara supported by the Board of Revenue, may be approved. The minor alterations indicated in the draft plaint at pp. 3-6 c.f. may also be made and the draft as approved by the Govt. may be forwarded to the Board of Revenue.

3. The Collector has also stated that the Govt. Pleader, Mangalore has reported that the plaint property has been valued at Rs.40,000/- on the basis of the income of the property and that he (the Govt. Pleader) suggests that Sri M. Venkatraya Kamath, Advocate, Mangalore may be appointed as his Junior to assist him in the above suit. The Collector requests that the suggestion of the G.P. may be approved. This may be agreed to. A draft order with ref. to A and B above is submitted for approval. Finance may see for acceptance.

Fin :

1 Finance (PWR)

The notes of Home on pp 1-3 alone may be perused and the draft order below accepted.

ADDITIONAL DEPUTY SECRETARY TO GOVERNMENT
56755
11 JUL 1953 PWR
FINANCE DEPARTMENT

ASSISTANT SECRETARY TO GOVERNMENT
HOME DEPARTMENT

Fin no 56755 PW&I
17-7-53

4/

Home Dept.

Please see the Finance Dept's note at foot of p.3 ante. The draft order below may now issue

18.7.53

18/7/53

20/7/53

(Issued as G.O. Ms. 2309 Home (J) 21-7-53)

p13C1